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Paper No. 6

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

In re Application of
Oates, et al.
Application No.: 10/099,883
Filed: March 14, 2002
Attorney Docket No.: 0102323-00099
For: WIRELESS COMMUNICATIONS
SYSTEMS AND METHODS FOR MULTIPLE
PROCESSOR BASED MULTIPLE USER
DETECTION

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DEC 26 2002

OFFICE OF PETITIONS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed December 12, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on March 14, 2002 without an executed oath or declaration and filing fees. Accordingly, on May 9, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and filing fees, and a surcharge for their late filing.

In response, on December 12, 2002 (certificate of mailing date December 9, 2002), a petition for a five month extension of time and required fee, a declaration executed by 11 of 12 joint inventors, the surcharge, application filing fees, the petition fee, and the instant petition were filed. A declaration of facts of Carolyn R. Marks, a patent assistant to the attorney of record, accompanied the petition. Ms. Marks explains that non-signing joint inventor, Paul E. Cantrell, received a copy of the application papers, but did not respond to the request that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63

and 1.64 still has not been presented. The declaration contains non-initialed and in some cases, non-dated alterations to Inventors Fuches, Jacques, and Cifric's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). Petitioners must submit supplemental declarations signed only by Inventors Fuches, Jacques, and Cifric, listing all the inventors and their information and correcting the non-initialed and/or non-dated changes to Inventors Fuches, Jacques, and Cifric's information.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions/E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy